

**REMARKS**

Claims 1-3 and 5 are pending.

Claims 1-3 and 5 are rejected.

Claims 4 and 6-12 are cancelled.

Claim 1 is amended to claim that the telephone path and the path for the transmission of the audiovisual content are two different paths. Support for this amendment is from paragraph 0028 of the specification.

No new matter has been added in view of these amendments.

In regard to the Examiner's point 2 of the Response of Arguments, the Applicants are unclear as to where the incorrect Application Number exists in the previous response. If there is still a problem, the Applicants will authorize an Examiner's amendment as to fix such a problem to help further along the prosecution of this application.

**Rejection of Claim 1-3 under 35 U.S.C. 103(a)**

The Examiner rejected Claims 1-3 and 5 under 35 U.S.C. 103(e) as being anticipated by Fukami et al. (U.S. Patent Pub 2002/0080971, hereafter referred to as 'Fukami') and in view of Ginter et al. (U.S. Patent 5,982,891A1), hereafter referred to as 'Ginter'). Applicants disagree with this ground of rejection.

In order to support a rejection under 35 U.S.C. 103(a), "either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the

teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Applicants submit that the Examiner's combination of Fukami in view of Ginter, alone or in combination, do not support the disclosure in these references of the claimed elements of Claim 1.

A. Claim 1, as amended, essentially claims two communication paths for the transmission of audiovisual programs and scrambling keys. The first communication path (which is can be cable, satellite, and/or airwaves based) is used for transmitting segments of an audiovisual program. The second communication path (which is different from the first) is a telephone communication where the scrambling keys are transmitted.

The Fukami reference (with Ginter) only discloses a single communication path that is used for transmitting both the audiovisual content and the scrambling keys. Specifically, this is explained in paragraph 0206-0208 of Fukami, where the programming, when scrambled, is multiplexed with entitlement control messages (ECMs) which contain the scrambling keys. The resulting multiplexed stream forms a transport stream which can be transmitted from a single broadcast point (as in step S7 for Fig. 9). This use of a multiplexed stream as the transmission modality for Fukami with Ginter is one fundamental difference between Claim 1 and the cited prior art.

B. A second feature of Claim 1 is that the transmission of the keys is that such a transmission of keys is synchronized with the transmission of the audiovisual program. The feature to Claim 1 that is not disclosed or suggested in the cited art is that such synchronization would be performed over two paths, and the keys are transmitted during the duration of the telephone call.

If one were to consider the operation of Fukami and Ginter in the most positive light, the references suggest a different manner for the use of such synchronization keys whereby one would either make use of the keys

transmitted in the ECMs of the multiplexed transport stream or make use of stored keys as described in paragraphs 0184-0191 of Fukami. Neither of these solutions and/or disclosures from the combination Fukami and Ginter anticipates or suggests the claimed elements of Claim 1.

For the reasons given above, Applicants assert that Claim 1 is patentable. In addition, Applicants assert that Claims 2-3 and 5 are patentable, as such claims depend on allowable Claim 1.

Having fully addressed the Examiner's rejections, it is believed that, in view of the amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,



Joel M. Fogelson  
Reg. No. 43,613  
Tel. No. (609) 734-6809

Thomson Licensing, LLC  
Patent Operations  
PO Box 5312  
Princeton, NJ 08543-5312  
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